

### **Remarks**

The Examiner is thanked for the Official Action dated December 02, 2003 and the indication of allowable subject matter. This amendment and request for reconsideration is intended to be fully responsive to the above Office Action.

Claims 2-13 were rejected under 35 U.S.C. 112 second paragraph as being indefinite, because claim 2 includes the following phrase "one and the same." Claim 2 has been amended to remove the indefinite language noted by the Examiner. No new matter has been entered.

Claim 1, 2, and 16-20 were rejected under 35 U.S.C. 102(b) as anticipated by newly cited U.S. Patent 6,144,315 to Flick. This rejection is respectfully traversed in view of the following comments.

Flick '315 fails to disclose a "a means (3) for controlling at least one action of the actuator mechanism [of an openable panel of the vehicle], when a motion of the user is remotely sensed by way of a motion sensor (7)."

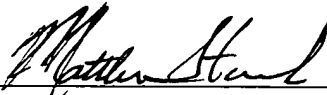
Indeed, the Examiner cites to three different location within Flick '315; however, Applicant cannot identify the claimed motion sensor anywhere in Flick '315. At column 1, lines 23-30, Flick '315 mentions motion sensors to detect opening of the trunk, hood, doors, windows or movement of the vehicle or within the vehicle. There is no description or suggestion that motion detects trigger any actuator mechanism of an openable panel of the vehicle. At column 4, lines 55-64, Flick '315 describes a classic remote keyless entry system where a transmitted is used to open a door, but again there is no mention of a motion sensor to actuate the openable panel. At column 9, lines 30-

34, Flick '315 again describes a classic remote keyless entry system to control a garage door opener. No mention is made of a motion sensor to actuate the openable panel.

In any effort to expedite prosecution, applicant has amended the claims to recite that the detected motion is the motion of a user – not motion of the openable panel. Clearly, Flick '315 fails to disclose the features of currently amendments claims 1-17 and 19-20.

It is respectfully submitted that the above amendments and comments resolve all outstanding issues and place this application in condition for allowance. Should the examiner believe that additional discussion would advance the prosecution of the present application, please contact the undersigned. Applicants believe that no fee is required for this submission. However, should a fee be due, please charge such fee to Deposit Account No. 50-0548.

Respectfully submitted,

 2/27/04  
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